

CHAPTER 2
ADMINISTRATION AND PROCEDURES

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CHAPTER 2

ADMINISTRATION AND PROCEDURES

PART 1 – DECISION MAKING BODIES AND OFFICIALS

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14-2-101 PURPOSE

The purpose of this Chapter is to establish the authority of decision making bodies and officials responsible for administering the provisions of the Bountiful Land Use Ordinance.

14-2-102 CITY COUNCIL

- A. Powers Not Enumerated in this Title. The Bountiful City Council has powers and duties which are not set forth in this Title or Chapter, and those stated here are not an exclusive or an exhaustive list. For other powers and duties, see the Bountiful City Code and the Utah Code.
- B. Powers and Duties Related to this Title. In administering this Title, the City Council shall have the powers and duties set forth below. Each of such powers and duties shall be exercised pursuant to the procedural and other applicable provisions of the Utah Code and of this Title.
 - 1. Adopt, modify, or reject a General Plan or any amendment thereto;
 - 2. Adopt, modify, or reject amendments to the text of the Land Use Ordinance and to the zoning map;
 - 3. Hear and decide appeals from Planning Commission decisions as provided in this Title;
 - 4. Establish a fee schedule for applications required by provisions of this Title; and
 - 5. Perform any other power or duty set forth in this Land Use Ordinance or in State law.

14-2-103 PLANNING COMMISSION

| A. Established. A Planning Commission, consisting of seven (7) members is hereby established to exercise the powers and duties specified herein.

| B. Appointment and Terms of Office.

| 1. Planning Commission members shall be appointed by the Mayor with the advice and consent of the City Council.

| 2. The terms of Planning Commission members shall be staggered. Each member of the Planning Commission shall serve for a term of four (4) years and until a successor is appointed, provided that members may be appointed for terms shorter than three (3) years when necessary to provide staggered terms.

| 3. Terms of Planning Commission members shall begin on July 1st of each year.

| 4. Planning Commission members may be reappointed for successive terms.

| 5. The Mayor, with the advice and consent of the City Council, may remove any member of the Planning Commission at any time with or without cause.

| 6. A vacancy occurring on the Planning Commission by reason of death, resignation, removal, disqualification or any other reason shall be promptly filled by a replacement appointed in the same manner as the original appointment for the remainder of the unexpired term of the replaced member.

| 7. The Mayor may appoint one person from the City Council as a full member of the Planning Commission.

| C. Organization and Procedure. The Planning Commission shall be organized and exercise its powers and duties as follows:

| 1. Members of the Planning Commission shall select one (1) of its members as chair to oversee the proceedings and activities of the Planning Commission.

| a. The chairperson shall serve for a term of one (1) year.

| b. Members of the Planning Commission shall select one (1) of its members as vice-chair to act in the absence of the chair. The chair and vice-chair may be re-elected for successive terms.

| 2. The Planning Commission may adopt policies and procedures, consistent with the provisions of this Title and applicable law, to govern the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the Planning Commission. All such policies and procedures shall be submitted to the City Council for review and approval.

| 3. The Planning Commission shall meet on a regular basis, as determined by a vote of the Planning Commission, and at such other times as the ~~Planning~~ Commission may determine. All meetings shall be properly noticed as required

by law, and held in accordance with the open meetings law set forth in Utah Code Ann. § 52-4-1, et seq., as amended. At the beginning of each year the Bountiful City Planning Department shall create and post in its office a schedule of Planning Commission meetings and application deadlines.

4. No official business shall be conducted by the Planning Commission unless a quorum of its members is present. Four (4) members of the Planning Commission shall constitute a quorum. Any action taken shall require a minimum of four (4) yes votes from members of the Commission, unless otherwise prescribed by law.
5. Any person desiring to appear before the Planning Commission shall complete an application and submit all required materials and fees to the Planning Department. An application that does not include all of the required signatures, materials, fees, or other necessary information shall be deemed incomplete and returned to the applicant ~~for resubmittal~~.
6. After an applicant has submitted a completed application to the Planning Department, ~~the item shall~~~~they will~~ be placed on the next available Planning Commission agenda, unless the applicant and the Commission Chairman agree to postpone placing the item on the agenda or agree to continue the item to a subsequent meeting.
7. An applicant may request that an item be postponed or continued a maximum of one meeting (i.e, once) or for 45 days from the date of application, whichever is longer. If the matter is not heard within this deadline, the application is deemed to have expired or been withdrawn, and must be resubmitted if the applicant desires the Commission to act on the item. This shall not apply to completed applications that have been placed on an agenda, reviewed and discussed by the Planning Commission, and then continued for reasons determined by the Commission.
8. The Planning Commission ~~shall~~~~may~~ not reconsider a previous action or change a recorded vote, and once an action is taken, the matter shall not be considered again for one calendar year.
9. Decisions of the Planning Commission shall take effect on the date of the meeting or hearing where the decision is made, unless a different date is designated in the Commission's rules or at the time the decision is made. The approval of written findings shall relate back to the date of decision.
10. The Planning Commission shall keep written minutes of its proceedings, showing the vote upon each question, or if absent or failing to vote, indicating that fact, and keep records of its examinations and other official actions. The Planning Commission may, but is not required to, have its proceedings ~~contemporaneously~~ transcribed by a secretary, a court reporter, ~~or~~ a tape recorder, or other recording device.
 - a. The Planning Commission shall report, either verbally or in writing, its official acts and recommendations to the City Council. Any member of

the Commission may also make a concurring or dissenting report or recommendation to the City Council.

b. The minutes of all meetings of the Planning Commission shall be prepared and filed in the office of the Planning Director, under the direction of the City Recorder. All such records are public records and shall be available for public review and access in accordance with the Government Records and Access Management Act, Utah Code Ann., 63-2-101, et seq., as amended.

D. Powers and Duties. The Planning Commission shall have all the powers and duties, explicit or implied, given planning commissions by Utah State law and the Bountiful City Land Use Ordinance, including but not limited to the following. Each of such powers and duties shall be exercised pursuant to the procedural and other provisions of this Title and of State law.

1. Prepare and recommend a general plan and amendments to the general plan to the City Council;

2. Recommend Land Use Ordinances and maps, and/or amendments to Land Use Ordinances and maps, to the City Council;

~~1.3. Administer applicable provisions of this Title and of State law;
Recommend subdivision ordinances and amendments thereto to the City Council;~~

4. Recommend approval or denial of subdivision applications;

5. Advise the City Council on matters requested by the City Council;

6. Hear and decide the approval or denial of conditional use permits;

7. Hear and decide variances from this title;

8. Hear and/or decide any other matter that the City Council designates;

9. Exercise any other powers that are necessary to enable the Planning Commission to perform its function or that are delegated to it by the City Council;

10. Perform any other power or duty set forth in this Land Use Ordinance or in State law relating to Planning Commissions.

E. Appeals. Any person adversely affected by a final decision of the Planning Commission may appeal that decision to the City Council by filing a written appeal with the Planning Director stating the grounds therefore within ten (10) days from the date of the rendering of a final decision. The exception is that any item the Planning Commission decides as an appeal body may not be appealed to the City Council. Every appeal must include every theory of relief that could be raised in the district court.

1. The Planning Department shall notify the City Council of the appeal and the City

Council shall set a date to hear the appeal. The Planning Department shall prepare and transmit the record of the Planning Commission decision to the City Council for their information and review.

2. The City Council, after a hearing and proper review of the Planning Commission decision, may affirm, reverse, alter or remand for further consideration any action taken by the Planning Commission and shall make such decision within thirty (30) days of the hearing of the appeal. When hearing an appeal of a Planning Commission decision, the noticing requirements shall be as follows:

3. Provide written notice to the applicant and appellant at least 10 days prior to the hearing.

4. Post the time, date, and place of the hearing in at least 3 public places or on the City website, at least 10 days prior to the hearing.

F. Examinations and Surveys. The Planning Commission and its authorized agents may enter upon any land at reasonable times to make examinations and surveys as necessary to enable it to perform its function to promote City planning, development, and enforcement of the provisions of this Title.

14-2-104 ADMINISTRATIVE COMMITTEE

A. Established. In order to provide for just and fair treatment in the administration of this Title, and to ensure that items of a routine nature are processed expeditiously and in a public forum, an Administrative Committee consisting of three (3) members is hereby established to exercise the powers and duties specified herein.

B. Appointment and Terms of Office.

1. The Planning Director and City Engineer, or their designees, shall each serve as members of the Board. The third member shall be appointed by the Mayor with the advice and consent of the City Council.
 - a. The appointed member of the Administrative Committee shall serve a term of 2 years and until a successor is appointed. Terms shall commence July 1st of every odd year.
 - b. An Administrative Committee member may be reappointed for successive terms.
 - c. The Mayor, with the advice and consent of the City Council, may remove an appointed member of the Administrative Committee at any time with or without cause.
 - d. A vacancy occurring on the Administrative Committee by reason of death, resignation, removal, disqualification or any other reason shall be promptly filled by a replacement appointed in the same manner as the original appointment for the remainder of the unexpired term of the replaced member.

2. The Mayor, with the advice and consent of the City Council, may approve an alternate to the Administrative Committee.
- C. Organization and Procedure. The Administrative Committee shall be organized and exercise its powers and duties as follows:
1. The Planning Director shall oversee the proceedings and activities of the Administrative Committee, and shall act as chairman.
 2. The Planning Director may vote.
 3. The Administrative Committee shall not meet in the absence of the Planning Director, City Engineer, or their designees, and no official business shall be conducted by the Administrative Committee unless a quorum of its members is present.
 4. The Administrative Committee may adopt policies and procedures, consistent with the provisions of this Title and applicable law, to govern the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the Committee.
 5. The Administrative Committee shall meet as necessary to consider matters within its jurisdiction. All meetings shall be properly noticed as required by law, and held in accordance with the open meetings law set forth in Utah Code Ann. § 52-4-1, et seq., as amended.
 6. Public comment shall be allowed on all items brought before the Administrative Committee. If an item brought before the Administrative Committee requires a public hearing and/or public notice, the noticing requirement shall be an on-site posting in a prominent location of the meeting date, location, and time, at least 10 days prior to the meeting, unless otherwise required by State Law. This noticing requirement shall supersede all other noticing provisions of this Title.
 7. Decisions of the Administrative Committee shall take effect on the date of the meeting or hearing where the decision is made, unless a different time is designated in the Board's rules or at the time the decision is made.
 8. The Administrative Committee shall keep written minutes of its proceedings, showing the vote upon each matter, and keep records of its examinations and other official actions.
 - a. The Administrative Committee shall provide a copy of each agenda and the outcome of each item to the City Council and Planning Commission.
 - b. The minutes of all meetings of the Administrative Committee shall be prepared and filed in the office of the Planning Director, under the direction of the City Recorder. All such records are public records and shall be available for public review and access in accordance with the Government Records and Access Management Act, Utah Code Ann., 63-

2-101, et seq., as amended.

- D. Powers and Duties. The Administrative Committee shall have the power and duty to review and decide those matters designated by the City Council and/or Planning Commission. The Administrative Committee Chairman may assign any item designated for Administrative Committee review to the Planning Commission, in which case any power or review authority granted to the Administrative Committee shall also be afforded to the Planning Commission. Each of such powers and duties shall be exercised pursuant to the procedural rules and other provisions of this Title and of State law. Items specifically designated to the Administrative Committee are as follows:
1. Conditional use permits for home occupation licenses and for commercial business operations that do not require a new and/or amended site plan.
 2. Variances from the terms of this Title, as designated by Ordinance.
 3. The expansion or modification of a non-complying single family dwelling or structure where the non-complying aspect is continued.
 4. Lot-line adjustments.
 5. Any other matter designated by the City Council or Planning Commission.
 6. Beer License violations short of suspension or revocation.
- E. Appeals. Any person adversely affected by a final decision of the Administrative Committee may appeal that decision to the Planning Commission or City Council, but not both, by filing a written appeal with the Planning Director stating the grounds therefore within fifteen (15) days from the date of the written decision or thirty (30) days from the decision date.

14-2-105 OTHER COMMITTEES

The Mayor and/or Planning Director may organize other, non-binding committees as necessary to facilitate planning objectives.

14-2-106 LAND USE ADMINISTRATION

- A. Appointment. The Planning Director shall be responsible for administering and enforcing this Title.
- B. Interpretation. When necessary, the Planning Director shall interpret the provisions of this Title, subject to general and specific policies established by the Planning Commission and City Council. These interpretive decisions may be appealed to the Planning Commission or City Council, but not both, as provided in this Title by filing a written appeal with the Planning Director stating the grounds therefore within fifteen (15) days from the date of the written decision.
- C. Administrative Duties. The Planning Director shall accomplish or cause to be accomplished all administrative actions required by this Title, including the giving of

notice, holding of hearings, preparation of staff reports, and receiving and processing of appeals.

14-2-107 ADA AND FFHA ACCOMMODATIONS

None of the requirements of this Title shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.

- A. Application. Any person or entity wanting a reasonable accommodation shall make application therefore to the Bountiful City Planning Director and shall articulate in writing the nature of the requested accommodation and the basis for the request.
- B. Decision. The Bountiful City Planning Director shall render a decision on each application for a reasonable accommodation. The decision shall be based on evidence of record. The Planning Director may approve a reasonable accommodation request, in whole or in part, if he/she finds all of the following:
 - 1. That the requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability; and
 - 2. That, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice; and
 - 3. That the accommodation is the minimum amount necessary to provide one or more persons with a disability an equal opportunity to enjoy housing of their choice.
- C. Appeal. The decision of the Planning Director on the request for reasonable accommodation may be appealed in the manner provided for appeals of decisions of the Planning Director in administering the Land Use Ordinance, as set forth in 14-2-106 of the Bountiful City Land Use Ordinance.

Table 14-2-108 APPROVAL/REVIEW BODIES

Item	Subcategory	Approval/Review Bodies			
		Staff	AC	PC	CC
Conditional Use Permit	Home Occupation	No	Final	Appeal Option	Appeal Option
	Commercial Operation	No	Final	Appeal Option	Appeal Option
	Structure/Land-use improvements	No	No	Final	Appeal
Subdivision	All	No	No	Recommend	Final
Re-Zone	All	No	No	Recommend	Final
Land Use Code Text Amendment	All	No	No	Recommend	Final
Combine Lots/Lot Line Adjustment	All	No	Final	Appeal Option	Appeal Option
Land Use Code/Map Interpretation	All	Planning Director	No	Appeal	No
General Plan	All	No	No	Recommend	Final
Site Plan	Residential SFD	Final	No	Appeal	No
	Res SFD 200+ feet from street	No	Final	Appeal Option	Appeal Option
	All other Residential	No	No	Recommend	Final
	Res. SFD Accessory Structure	Final	No	Appeal	No
	All other Res. Accessory Accessory Structure	Final	No	Appeal	No
	Non-Residential	No	No	Recommend	Final
	Non-Residential Access. Structure	Final	No	Appeal	No
	All Non-SFD Residential Amend	No	No	Recommend	Final
	All Non-Residential Amend	No	No	Recommend	Final
Expansion of Non-Complying Site or Structure	Residential SFD	As Designated	All Others	Appeal Option	Appeal Option
	All Others	No	As Designated	All Others	Appeal
Expansion of Non-Conforming Use	All	No	As Designated	All Others	Appeal

TABLE 14-2-108 APPROVAL/REVIEW BODIES (CONTINUED)

Item	Subcategory	Approval/Review Bodies			
		Staff	AC	PC	CC
Easement <u>Easement</u> Release	All	No	No	No	Final
Variance	Slopes > 30%	No	Final	Appeal Option	Appeal Option
	Cuts and Fills (includes retaining walls) > 10 feet	No	Final	Appeal Option	Appeal Option
	Setbacks	No	No	Final	Appeal
	All others	No	No	Final	Appeal
Drive Approach	Residential SFD	Final	No	Appeal	No
	All Non-SFD (without site plan review)	Final	No	Appeal	No
	All Non-SFD (with site plan review)	No	No	Recommend	Final
Interior Remodel <u>Remodel</u>	All	Final	No	Appeal	No
Retaining Wall	All	Final	No	Appeal	No
Signs	Commercial Pole/Monument - New	No	No	Recommend	Final
	All	Final	No	Appeal	No
Utility Connections	All	Final	No	Appeal	No
Vacate/Abandon Public Property	All	No	No	Recommend	Final
Improve Public Property	All	No	No	Recommend	Final
<u>ADA and FFHA Accommodations</u>	<u>All</u>	<u>Planning Director</u>	<u>No</u>	<u>Appeal Option</u>	<u>Appeal Option</u>

Appeal = A request by anyone, including the City Council or Planning Commission, to reconsider an item, as permitted by this Title.

Staff = The Planning, Engineering, and/or Building Department employees as assigned.

AC = Administrative Committee; As ~~established by Ordinance 2005-14~~ currently composed.

PC = Planning Commission; As currently composed.

CC = City Council; As currently composed.

CHAPTER 2

ADMINISTRATION AND PROCEDURES

PART 2 – ZONE ESTABLISHMENT

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14-2-201 ZONE ESTABLISHMENT

In order to accomplish the purpose of this Ordinance, Bountiful City is hereby divided into zones in accordance with the adopted comprehensive plan of the City as follows:

R	Single Family Residential Zone
RM	Multiple Family Residential Zone
C	Commercial Zone
DN	Downtown Zone
PO	Professional Office Zone
H	Hospital Zone
MXD	Mixed Use Zone
PF	Public Facilities Zone
MWP	Mountain Development and Watershed Protection Zone
PDO	Planned Development Overlay Zone

14-2-202 OFFICIAL ZONING MAP

- A. The location and boundaries of all zoning districts as contained herein, including subsequent amendments, are shown on the map entitled ~~ZONING MAP OF BOUNTIFUL CITY, UTAH.~~ BOUNTIFUL CITY ZONING MAP. The territory within the City shall be subject to the land use restrictions set forth for such zoning districts, as shown upon the maps.
- B. Amendments to the boundaries of a specific zoning district shown on the ~~ZONING MAP OF BOUNTIFUL CITY, UTAH.~~ BOUNTIFUL CITY ZONING MAP shall be accomplished in accordance with the provisions set forth in this Title.
- C. The Planning Director shall update the zoning district map as soon as possible after amendments are adopted by the City Council. Upon entering any such amendment on the map or maps, the Planning Director shall change the date of the map or maps to indicate the latest revision. New prints of the updated map may then be issued.

14-2-203 LOCATION OF ZONE BOUNDARIES

Where uncertainty exists with respect to the boundaries of various zones, the following rules shall apply:

- A. Where the intended boundaries on the zone map are approximately street lines, the centerline of said street shall be construed to be the zone boundary.
- B. Where the indicated boundaries are approximately lot lines, said lot lines shall be construed to be the zone boundary, unless otherwise indicated.
- C. Where the indicated boundaries are approximately rivers or streams, the centerline of said, river or stream, shall be construed to be the zone boundary.
- D. In the absence of any street, lot line, river, or stream, the zone boundary shall be determined by use of the scale of measurement shown on the zoning map.
- E. Where other uncertainty exists, the Planning Director shall interpret the zoning map.

14-2-204 NEWLY ANNEXED TERRITORIES

- A. Territories which the City annexes shall be assigned a zoning designation at the time the annexation ordinance is adopted. The Planning Director shall recommend a zone designation for the area to the City Council.
- B. In order to ensure due process and to protect the right of the citizens of the City, property shall be zoned as indicated in the most recently adopted version of the General Plan unless it can be demonstrated to the City Council that some other zoning designation is appropriate. No official of the City shall utilize zoning designation commitments as a means of bargaining for the annexation of property into the City.

14-2-205 AMENDMENTS TO ORDINANCE AND MAP

- A. This Ordinance Title, including the official zoning map, may be amended by the City Council after said amendments shall have first been submitted for recommendation to the Planning and Zoning Commission.
- B. For the purpose of establishing and maintaining sound, stable, and desirable development within the City, it is declared to be the public policy that amendments ~~shall~~ should not be made to this Ordinance or Map except to promote ~~more fully~~ the objectives and purpose of this Title, the Bountiful City General Plan, Ordinance or to correct manifest errors.
- C. Any person or organization seeking an amendment to the Land Use Ordinance or any property owner or authorized agent of any property owner seeking an amendment to the Zoning Map shall submit to the Bountiful City Planning Department ~~Office a written petition a completed application~~ containing the following information:
 - 1. Designation of the specific zone change or Ordinance amendment desired.

2. The reason and justification for such zone change or Ordinance amendment, and a statement setting forth the manner in which a proposed amendment or Zone would further promote the objectives and purposes of this Ordinance.
 3. A complete and accurate legal description of the area proposed to be rezoned, or a draft of the proposed Ordinance amendment.
 4. An accurate plat, drawn to scale with appropriate dimensions, showing all areas to be included within the proposed rezoning, designating the present zoning of the property subject to the petition, and properties immediately adjacent thereto.
 5. A list of all property owners within a radius of five hundred (500) feet of the boundaries of the property to be rezoned, as currently shown in the records of the Davis County Recorder, on self-adhesive labels ready for mailing to all names on the list.
 6. A filing fee for a zone change or text amendment, as set by the City Council, paid at the time of application. This fee is non-refundable. An application initiated by the City shall be exempt from paying the required filing fee. The purpose of this fee isis fee shall be applied to the General Fund to offset the cost of legal publications, notification of property owners, and the staff time involved in researching the appropriateness of said request and its effect on the general welfare of the City.
- D. Upon receipt of a completed application~~written petition~~, the Planning Director shall forward a copy of all material to the Planning Commission for consideration at the next regularly scheduled meeting that satisfies all of the noticing requirements.
- E. The Planning Commission and/or City Council shall not hear a petition to rezone a parcel of land, or portion of a parcel of land, that was considered for rezone within the previous six (6) months, except that the City Council may reconsider a previous action to deny a request sooner than the expiration of the six (6) month period, if:
1. At least one City Council member, who voted with the prevailing majority on the earlier City Council action, moves to have the City Council reconsider the matter and a quorum of the City Council approves the reconsideration; and
 2. The appropriate notices are published and a public hearing held, as required by law. Referral to and reconsideration of the rezone by the Planning Commission shall be at the discretion of the City Council.
- F. Once an item has been properly noticed and placed on an agenda, the Planning Commission shall consider the request and shall approve, disapprove or hold the petition for future consideration. After taking final action on such petition, the Planning Commission shall certify its recommendation to the City Council as approval or disapproval of the proposed amendment. Before recommending an amendment to this Ordinance or a zone change to the Map, it must be found that such amendment is necessary, is in the interest of the public, and is in harmony with the objectives and purposes of this Ordinance. Failure on the part of the Planning Commission to make

recommendation to the City Council within thirty (30) days after hearing the petition shall be deemed to constitute approval of such proposed amendment or change which shall then be passed on to the City Council for appropriate action.

- G. The City Council shall determine if a public hearing should be scheduled to consider the zone change or Ordinance amendment. Concurrence by the City Council with an unfavorable recommendation of the Planning Commission shall constitute a denial of the application, and no public hearing shall be held. If the recommendation is favorable or if the City Council determines the proposed amendment to be desirable despite an unfavorable recommendation, a public hearing shall be scheduled.
- H. The public noticing requirement for a zone map amendment or Land Use Ordinance text amendment shall be as required by State Law. In addition, the following shall apply for a zone map amendment:
 - 1. Notice shall be sent to all property owners within five hundred (500) feet radius of the subject property at least fourteen (14) days prior to the first scheduled public hearing.
 - 2. A sign shall be posted on the site or adjacent to the closest section of public right-of-way, at least ten (10) days in advance of the scheduled meeting.
- I. After the public hearing, the City Council may adopt, amend and adopt, or reject the zone change or Ordinance amendment.
- J. Resubmission of any application for the same amendment shall not be allowed for a period of one (1) year from the date of final decision or from the date when the application was withdrawn.

14-2-206 VARIANCES

- A. Variances from the terms of this Ordinance may be granted by the Planning Commission, or the Administrative Committee, according to the provisions of this Title and State Law. An application for a variance shall be filed with the Planning Department. Said application shall contain the following:
 - 1. A description of the requested variance, together with a description of that Ordinance provision for which relief is being requested and why such provision causes undue hardship or need for variance.
 - 2. An accurate plot plan, where appropriate, indicating the manner in which the variance will be applied and its effect on adjacent properties.
 - 3. A filing fee as set by the City Council.
 - 4. If required, mailing addresses of all of the property owners within three (300) feet of the subject property, as per current County records, printed on self adhesive labels.

B. Any request for variance shall be heard and decided by the Planning Commission unless the item falls within a category designated for Administrative Committee review. If the item is to be reviewed by the Planning Commission, a copy with all accompanying materials shall be forwarded to the Planning Commission for their action. When considering the request, the Planning Commission or Administrative Committee shall hold a public hearing meeting to review the request and other concerns and take appropriate action upon the request.

C. The noticing requirement for a variance heard by the Planning Commission shall be as follows:

1. Notice sent to all property owners within a three hundred (300) feet radius of the subject property fourteen (14) days prior to the hearing date.
2. Posted with notification signage on the subject property by the applicant/agent. The signage shall be provided to the applicant/agent by the City and shall be posted by the applicant/agent ten (10) days in advance of the scheduled meeting.

D. The noticing requirement for a variance request heard by the Administrative Committee shall be the same as required for any public hearing held by the Administrative Committee, as set forth in 14-2-104.

E. The Planning Commission or Administrative Committee, after hearing necessary testimony, information and citizen input, shall then make a finding conforming to this Title and Section 10-9a-702 of the Utah State Code, which is as follows:

10-9a-702 Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

(2) (a) The appeal authority may grant a variance only if:

(i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) the spirit of the land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and

(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The appeal authority may not grant a use variance.

(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

(a) mitigate any harmful affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

F. In granting a variance, the Planning Commission or Administrative Committee may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties

14-2-207 ESTABLISHMENT OF USES NOT SPECIFIED

~~A. When a use is not specifically contained in the list of permitted or conditional uses in a particular zone, it is considered a non-permitted use and therefore is not allowed. The City Council may amend the Land Use Ordinance to allow additional uses through the ordinance amendment process set forth in 14-2-205. but is of similar character and intensity as such permitted or conditional uses so listed, the City Council may allow the establishment of that use upon request. The person proposing to establish such use shall apply to the City Council for that permission.~~

~~B. The following criteria, in addition to any other criteria the City Council deems pertinent, shall be considered in evaluating the proposed use:~~

~~1. The establishment of the use will be in accordance with the purposes of the zoning district in which that use is proposed.~~

~~2. The use will be an appropriate addition to the zone because it has the same basic characteristic as the other uses permitted in the district.~~

~~3. The use will not be detrimental to the public health, safety, or welfare.~~

~~4. The use shall not adversely affect the character of that zoning district in which it is proposed to be established.~~

~~5. The use will not create more traffic, odor, dust, dirt, smoke, noise, vibration, illumination, glare, unsightliness, or any other objectionable influence than the amount normally created by any of the uses listed as permitted uses in the zoning district.~~

~~6. The use will not create any greater hazard of fire or explosion than the hazard normally created by any of the uses listed as permitted uses in that district.~~

~~C. Prior to acting on the application, the City Council may refer the matter to the Planning Commission for a recommendation.~~

~~1. For any application for consideration of a use not specified in any residential zone, the matter shall first be referred to the Planning Commission for a recommendation.~~

~~2. For any application for consideration of a use not specified in any professional, hospital or commercial zone, the City Council may, at its discretion, refer the matter to the Planning Commission for consideration and recommendation or may consider the matter without referral to the Planning Commission.~~

~~D. Any approval of a use not specified is considered a clarification of the Land Use Ordinance and not an amendment. Any approval applies only to the specific application and not generally through any given district.~~

~~E. Upon receipt of a recommendation from the Planning Commission, the City Council shall hold a public hearing for any use to be considered as an exception in any residential zone. All landowners within five hundred (500) feet of the proposed use shall be notified of the public hearing and a notice of the public hearing shall be published in a newspaper of local circulation at least fourteen (14) days prior to the hearing.~~

~~F. Upon receipt of a recommendation from the Planning Commission for any use to be considered as an exception in any professional office, hospital or commercial zone, the City Council may, at its discretion, hold a public hearing or consider the use without a public hearing. If the City Council determines that a public hearing should be held, all landowners within five hundred (500) feet of the proposed use shall be notified of the public hearing and a notice of the public hearing shall be published in a newspaper of local circulation at least fourteen (14) days prior to the hearing.~~

~~G. Where a public hearing is to be held, the applicant shall be responsible for all publication and mailing costs and shall provide a list of all property owners within a radius of five hundred (500) feet of the boundaries of the property to be considered, as currently shown in the records of the Davis County Recorder, accompanied by addressed, self-adhesive labels ready for mailing to all names on the list.~~

14-2-208 CLARIFICATION OF ZONING

Any property which, for any reason, is not clearly zoned on the City's official zone map, or is determined not to be subject to the requirements of a zone classification as provided by this

Ordinance, is hereby declared to be in the Single Family Residential (R-F) Zone, and shall be subject to the requirements of the R-F Zone.

14-2-209 CLARIFICATION OF AMBIGUITY

If ambiguity arises concerning appropriate classification of a particular use within the meaning and intent of this Ordinance, or with respect to matters of height, yard requirements, area requirements, zone boundaries, or any other provision of this Title as set forth herein and as they may pertain to unforeseen circumstances, including technological changes and processing of materials, the Planning Director shall ascertain all pertinent facts and shall make a decisions in writing as appropriate. The decision of the Planning Director may be appealed in the manner provided for appeals of decisions of the Planning Director in administering the Land Use Ordinance, as set forth in 14-2-106 of the Bountiful City Land Use Ordinance.~~Any appeal of the Planning Director's written decision shall be made to the Planning Commission in writing within 30 days of that decision.~~

CHAPTER 2

ADMINISTRATION AND PROCEDURES

PART 3 – ARCHITECTURAL AND SITE PLAN APPROVAL

14-2-301	PURPOSE
14-2-302	APPROVAL REQUIRED
14-2-303	APPLICATION
14-2-304	ACCOMPANYING MAPS AND DRAWINGS REQUIRED
14-2-305	REVIEW AND APPROVAL
14-2-306	CONSIDERATIONS IN REVIEW OF APPLICATIONS
14-2-307	INSTALLATION OF IMPROVEMENTS

14-2-301 PURPOSE

The purposes of the architectural and site plan review and approval process ~~is approval~~ are:

- A. It to determine compliance with this Ordinance;
- B. It to promote the orderly and safe development of land in the City;
- C. It to ~~establish satisfaction of the recommendations of the Bountiful City General Plan relating to the visual quality of the City~~ implement the policies and goals established in the Bountiful City General Plan; and
- D. To promote the orderly layout of buildings, landscaping, walkways, lighting, and other site improvements ~~to promote the general welfare by the erection of structures or additions or alterations which are accorded proper attention to site planning, attractive appearance, and harmony with their environments.~~

14-2-302 APPROVAL REQUIRED

- A. The following uses shall require site plan approval from the Planning Commission and the City Council ~~Architectural and site plan approval shall be required as set forth in the respective zoning districts for all of the following uses:~~
 - 1. Any industrial use.
 - 2. Any commercial use.
 - 3. Any institutional use.
 - 4. Any multiple-family use, including apartments, ~~and~~ condominiums, and two family units (duplexes).
 - 5. Any combination of residential and non-residential uses, except for home occupations.

6. Any other non single-family residential use.

B. The Bountiful City Planning and Engineering Departments are the bodies designated to review and approve single-family residential site plans.

14-2-303 APPLICATION

~~Application for architectural and site plan review shall be made by the~~ The property owner or an authorized agent shall submit a completed application, ~~agent on a form prescribed for this purpose by the City and presented to the Planning Department including all required materials and fees, to the Planning Department. An application that does not include all of the required signatures, materials, fees, or other necessary information shall be deemed incomplete and returned to the applicant.~~

14-2-304 ACCOMPANYING MAPS AND DRAWINGS REQUIRED

All maps, drawings, and illustrations shall conform to ~~Chapter 15~~Section 23 - *Design Standards for Non-Single Family Development*, and to all other provisions of this title, and shall be prepared and drawn to a standard scale large enough to show details clearly with dimensions thereof. Said maps and drawings shall be stamped by a Registered Architect, Engineer, Landscape Architect, or Land Surveyor in accordance with the laws of the State of Utah and the provisions of this Title. The following shall be included:

A. For Preliminary Review:

1. A vicinity map showing site orientation and location in relation to streets and arterial roads.
2. Statement of building use, occupancy, area tabulations, parking and landscaping tabulations.
3. The location of all proposed and existing structures on the subject property and within fifty (50) feet on immediately adjoining properties to show that light and air are preserved, and to show that the development will not be detrimental to the orderly and harmonious development of the City.
4. Location and types of landscaping and/or fencing and screening within yards and setback areas, including proposed sprinkling and irrigation systems.
5. Location of existing and proposed utilities (i.e., power, water, sewer, gas, telephone, storm drains) and other public infrastructure improvements (i.e., curb, gutter, sidewalk, streets) together with existing easements and rights-of-way.
6. Design of ingress and egress to provide a functional on-site traffic flow and to prevent interference with traffic on adjacent streets.
7. Off-street parking and loading facilities in compliance with the off-street parking and loading standards as set forth in Chapter 18 of this Ordinance, including provisions for pedestrians and the disabled.

8. Existing and proposed contours and spot elevations.
 9. Preliminary drainage plan.
 10. Preliminary building elevations and sections.
 11. Architectural drawings, sketches, or perspective drawings of the exterior elevations of proposed buildings, structures, signs, including types, textures and colors of materials to be used.
 12. Other pertinent building features.
- B. For Final Review:
1. Detailed development of all items required for Preliminary Review.
 2. Modifications required by conditions of the Planning Commission for Preliminary Approval and further optional modifications by owner/developer.
 3. Landscape plan including plant materials list and details of installation prepared by a landscape architect or licensed landscape installer.
- C. For Building Permit:
1. All final construction documents including detailed development of all items required for Preliminary and Final Review.
 2. Documentation showing compliance with County Flood Control requirements.
 3. Surface and subsurface drainage, including catch basins, piping and detention basins.
 4. Landscaping and sprinkler plans and details of installation prepared by a landscape architect or licensed landscape installer.

14-2-305 REVIEW AND APPROVAL

- A. The Planning Commission shall determine if the proposed architectural and site development plans submitted are consistent with this Chapter and with the purpose and objectives of this Ordinance. Upon a finding that the application meets the intent of this Chapter, the Planning Commission shall recommend to the City Council to approve, approve with conditions, or deny the architectural and site development plans as submitted. The Planning Commission recommendation shall expire within six months from the time of recommendation.
- B. The final decision by the City Council shall expire within one year of the final decision. If an entire project is not to be built simultaneously, a phasing plan must be approved at the time of final approval, and construction commenced within one year of the approved phasing dates. One extension of up to six months may be approved by the City Council.

14-2-306 CONSIDERATIONS IN REVIEW OF APPLICATIONS

The Planning Commission shall consider the following matters, and others when applicable, in their review of architectural and site development plans, and may refer the plans to one or more expert consultants if the Planning Commission deems it necessary.

A. Considerations relating to traffic safety and traffic congestion:

1. The effect of the site development on traffic conditions on abutting streets.
2. The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives and walkways.
3. The arrangement and adequacy of off-street parking areas, facilities and other vehicular facilities, to prevent traffic congestion, and compliance with the provisions of Chapter 18 of this Ordinance.
4. The location, arrangement, and dimensions of truck loading and unloading facilities.
5. The transportation circulation patterns within the boundaries of the development, and the impact on transportation patterns within the general vicinity of the development.
6. The design, construction, and durability of all site plan elements, surfacing and lighting of off-street parking facilities.

B. Considerations relating to signs:

1. That all signs ~~that~~ are integral to compatible with the architectural design of the buildings and are in compliance with the provisions of Chapter 19 of this Title Ordinance.
2. That ~~Do~~ directional and/or informational signs are in compliance with the provisions of Chapter 19 this Ordinance and are in locations and of such dimensions so as to not cause poor visibility for traffic.

C. Considerations relating to landscaping and other site improvements:

1. That the location, height, and materials of walls, fences, hedges, and screen plantings concealing storage areas, utility installations, or other unsightly development ~~insure harmony~~ are harmonious with adjacent development.
2. That the planting of ground cover or other surfacing is designed to prevent dust and erosion.
3. That the design keeps the destruction of existing healthy trees to a minimum.

4. That the design, construction, and durability of all site plan elements meets the standards set forth in this Title.

D. Considerations relating to buildings and site layout:

1. That the general building silhouette and mass, including location on the site, elevations, and relation to natural plant coverage, is in appropriate and harmonious relationship to the character of the neighborhood.
2. That the exterior design is appropriate and harmonious in relation to adjoining structures in height, bulk, area openings, breaks in facade facing the street (or streets), line and pitch of roofs, and arrangement of structures on the parcel.

E. Considerations relating to drainage:

1. The effect of the site development plan on the adequacy of the storm and surface water drainage facilities.

14-2-307 INSTALLATION OF IMPROVEMENTS

Landscaping, sprinkling systems, walls, fences and/or screening structures, walks, parking areas, and other on-site improvements shall be installed in accordance with approved final site plan prior to issuance of any occupancy permit. If the installation of any of these improvements cannot be completed due to weather or other circumstances beyond the control of the owner or developer, a Conditional Certificate of Occupancy may be issued if a Performance Security and Deferral Agreement is signed by the developer or owner which shall guarantee completion of all unfinished improvements. Such agreement shall be reviewed and approved by the City Attorney.

The Performance Security and Deferral Agreement shall consist of:

- A. A signed statement by the owner or developer that such improvements will be completed by the earliest possible date to be determined by mutual agreement between the owner or developer, the Planning Director and/or City Engineer. An extension beyond this date may be granted if the owner or developer contacts the City fourteen (14) days prior to the original completion date, the Planning Director and/or City Engineer agree to such an extension, and the agreement is so amended.
- B. A performance security, in favor of Bountiful City and in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of installation of the unfinished improvements, is received in the form of either a security bond by a surety company duly authorized to do business in the State of Utah, or a letter of credit by a bank or savings and loan institution, or a cash deposit. The performance security shall be refunded upon inspection and acceptance of the improvements by the City of Bountiful.
- C. A signed agreement by the owner or developer that the bond will be forfeited to the City in the event the improvements are not installed by the agreed date, including a statement the City will have the right to take legal action to compel the completion of such improvements.

CHAPTER 2

ADMINISTRATION AND PROCEDURES

PART 4 - NONCONFORMING USES AND NON-COMPLYING SITES/BUILDINGS

14-2-401	DEFINITIONS
14-2-402	GENERAL PROVISIONS
14-2-403	ABANDONMENT OF NONCONFORMING USE
14-2-404	CHANGE OF STATUS
14-2-405	TERMINATION OF NONCONFORMING USES AND NONCOMPLYING STRUCTURES
14-2-406	DETERMINATION OF NONCONFORMING STATUS
14-2-407	SCHOOLS

14-2-401 DEFINITIONS

See Chapter 3 of this Title for the following definitions:

A. ~~"Noncomplying Structure"~~ (also "Nonconforming Structure") ~~means a structure that:~~

~~1. Legally existed before its current land use designation; and~~

~~Because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations which govern the use of land.~~

~~"Nonconforming Lot"~~ means a lot that:

~~Legally existed before its current land use (zoning) designation;~~

~~Has been shown continuously on the records of the Utah County Recorder as an independently existing piece of property; and~~

~~Because of one (1) or more subsequent land use ordinance changes does not conform to the minimum size, width, frontage, depth or other applicable dimensional requirements of the zone where the lot is located.~~

~~"Nonconforming Sign"~~ means a sign or sign structure that:

~~Legally existed before its current land use (zoning) designation; and~~

~~Because of subsequent land use ordinance changes does not conform to the regulations that now govern the use of the sign.~~

B. ~~"Nonconforming Use"~~ means a use of land that:

~~1. Legally existed before its current land use designation;~~

~~Hhas been maintained continuously since the time the land use ordinance~~

~~governing the land changed; and~~

- ~~2. Because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.~~

~~"Nonconformity" is a general term to collectively describe:~~

~~A non-complying structure, a non-conforming lot, a non-conforming sign, a non-conforming use, and/or any other item that legally existed before the current land use (zoning) designation of the property where the said item is located; and~~

~~Because of subsequent land use ordinance changes does not conform to the regulations that now govern the use of the land.~~

~~"Other Nonconformity" means a circumstance governed by this Title other than a non-complying structure, a non-conforming lot, a non-conforming sign, or a non-conforming use that:~~

~~Legally existed before the current land use (zoning) designation of the lot where the nonconformity is located; and~~

~~Because of subsequent land use ordinance changes does not conform to the regulations that now govern the use of the land.~~

14-2-402 GENERAL PROVISIONS

- ~~A. Continuation. A nonconformity in any zone may be continued as provided so long as no additions or enlargements are made thereto and no structural alterations are made therein, except as provided in this Chapter or as may be required by law. If any nonconformity is removed from the property on which it was located it shall not be replaced unless it conforms to the current provisions of this Title.~~
- ~~B. Maintenance and Repair. Repairs and structural alterations may be made to any nonconformity within the existing footprint thereof provided that the degree of nonconformity is not increased.~~
- ~~C. Expansion and Enlargement. Any expansion of a nonconformity that increases the degree of nonconformance is prohibited except as provided in this Title or as may be required by law. For purposes of this Section, the addition of a solar energy device to a building is not an expansion.~~
- ~~D. Relocation. Only noncomplying structures may be relocated. If a noncomplying structure is relocated within the City, it shall be located in a manner which fully conforms to the applicable requirements of this Title.~~
- ~~E. Restoration. A noncomplying structure or a nonconforming sign damaged by fire, wind, tornado, earthquake, or other natural disaster or calamity may be restored as it existed previously and its use may be continued so long as restoration is complete within one (1) year.~~

~~14-2-402 CONTINUATION OF NONCONFORMING USE AND NONCOMPLYING STRUCTURES~~

~~Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.~~

~~14-2-403 EXPANSION OF NONCONFORMING USE AND NONCOMPLYING STRUCTURE~~

14-2-40~~3~~³⁴ ABANDONMENT OF NONCONFORMING USE

- ~~A. Land loses its nonconforming use status if the termination of a nonconforming use is abandoned. Abandonment automatically occurs if the nonconforming use of the land ceases for any reason for a period of one year or longer. Abandonment of a nonconforming use shall be presumed to have occurred if:~~
- ~~1. A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the City regarding an extension of the nonconforming use; or~~
 - ~~2. The use has been discontinued for a minimum of one (1) year; or~~
 - ~~3. The primary structure associated with the nonconforming use remains vacant for a period of one (1) year; or~~
 - ~~4. The property is subdivided or otherwise diminished, whether through metes and bounds deed exchange, subdivision plat, or any other means.~~
- ~~B. Burden of Proof. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.~~
- ~~C. Rebutting Presumption of Abandonment - Burden of Proof. The property owner may rebut the presumption of abandonment and shall have the burden of establishing that any claimed abandonment has not in fact occurred.~~

~~14-2-405 RESTORATION AFTER INVOLUNTARY DESTRUCTION~~

~~Except as provided in subsection B below, a noncomplying structure or nonconforming use of a structure may be reconstructed or restored after an involuntary destruction in whole or in part due to fire or other calamity, unless the structure or use has been abandoned.~~

14-2-404 CHANGE OF STATUS

- ~~A. Any nonconformity shall not be changed except in conformance with the provisions of this Title.~~
- ~~B. Whenever any nonconforming use is changed to a less intensive nonconforming use, such use shall not be changed back to a more intensive nonconforming use.~~

C. Whenever any nonconforming use is changed to a conforming use, the nonconforming use status is immediately abandoned and it is unlawful to revert back to that nonconforming use.

14-2-40~~56~~ NO RESTORATION AFTER DETERIORATION OR VOLUNTARY DESTRUCTION
TERMINATION OF NONCONFORMING USES AND NONCOMPLYING STRUCTURES

A. Illegal Use. An illegal nonconforming use shall be terminated immediately without regard to this Section.

B. Reconstruction or restoration of a noncomplying structure is prohibited, or the nonconforming use of a structure is terminated, if:

1. The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

2. The property owner or his/her agent has voluntarily demolished a majority of the noncomplying structure; or

3. The property owner or his/her agent has voluntarily demolished a majority of the building structure that houses contains the nonconforming use.

14-2-107 BURDEN OF PROOF

A. ~~The property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.~~

B. ~~Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.~~

~~(1) Abandonment may be presumed to have occurred if:~~

~~(a) A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;~~

~~(b) The use has been discontinued for a minimum of one year; or~~

~~(c) The primary structure associated with the nonconforming use remains vacant for a period of one year.~~

~~(2) The property owner may rebut the presumption of abandonment, and shall have the burden of establishing that any claimed abandonment has not in fact occurred.~~

14-2-406 DETERMINATION OF NONCONFORMING STATUS

Burden of Proof. In all cases, the property owner shall have the burden of proving by a preponderance of evidence that a lot, structure, use or other circumstance which does not conform to the provisions of this Title was legally established.

- A. A preponderance of evidence is evidence which is more credible and convincing than evidence offered in opposition to it.
- B. Evidence offered to prove a lot, structure, use, or other circumstance was legally established may include, but is not limited to:
 - a. The date when the circumstance was created;
 - b. Copies of applicable zoning, building, or other code provisions in effect at the time of creation;
 - c. Documents showing the nonconforming circumstance was authorized, such as building permits, letters, and meeting minutes of governmental bodies where the circumstance was discussed and/or authorized;
 - d. Property inspection reports which indicate the degree that the nonconforming circumstance complies with applicable codes in effect at the time of creation; and
 - e. Affidavits of persons with personal knowledge of the circumstances of creation.
- 2. If a previously existing land use ordinance is applied to a claimed nonconforming circumstance, and no provision of such ordinance would have allowed such circumstance, it shall be prima facie evidence that the nonconforming circumstance was not legally established.
- C. If when established, a lot, structure, use, or other circumstance did not conform to the provisions of applicable land use ordinance provisions, the fact that it has been occupied, used, or existed for a considerable period of time shall not be a factor in determining whether the circumstance should be deemed legally established.
- D. Abatement or Compliance. If a property owner is unable to demonstrate that a nonconformity was legally established, it shall be deemed illegal and shall be abated or brought into conformance with applicable provisions of this Title. Abatement or compliance shall be achieved within thirty (30) days, unless the work which must be undertaken to achieve compliance cannot be accomplished in that time period. In such case the owner of the property shall enter into a legally binding agreement wherein the owner agrees to a schedule to achieve conformity as soon as reasonably practicable, so long as compliance is achieved within six (6) months.

14-2-~~407~~108 SCHOOLS

The nonconforming status of a school district or charter school use or structure is terminated

when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period of one year or longer.

CHAPTER 2

ADMINISTRATION AND PROCEDURES

PART 5 - CONDITIONAL USES

14-2-501	PURPOSE OF CONDITIONAL USE PROVISIONS
14-2-502	PERMIT REQUIRED
14-2-503	APPLICATION
14-2-504	FEE
14-2-505	PUBLIC COMMENT AND NOTICE
14-2-506	DETERMINATION
14-2-507	INSPECTION
14-2-508	REVOCATION
14-2-509	TIME LIMIT
14-2-510	RE-APPLICATION AFTER DENIAL OR REVOCATION
14-2-511	CONTINUING EFFECT

14-2-501 PURPOSE OF CONDITIONAL USE PROVISIONS

Certain uses which ~~may be harmonious under special conditions and in specific locations within a district, but may not be suitable and desirable in other locations~~ necessitate special conditions in order to make them compatible with permitted uses within a zone designation, are ~~classified~~ classified as conditional uses ~~within the various districts~~ and require approval of a Conditional Use Permit ~~s for approval as authorized by the Planning Commission.~~

14-2-502 PERMIT REQUIRED

A Conditional Use Permit shall be required for ~~anyall~~ any uses listed as a conditional uses in any zoning designation and/or as set forth the district regulations or elsewhere in this TitleOrdinance. A Conditional Use Permit may be revoked upon failure of the original applicant or any successor, owner, or occupant to comply with conditions precedent to the original approval of the permit, or as otherwise provided in the Bountiful City Code.

14-2-503 APPLICATION

A. Conditional Use Permit application shall be filed with the Planning Department as provided in this TitleOrdinance. Conditional uses shall be heard and decided by the Planning Commission ~~unless the item falls within a category designated foror the~~ Administrative Committee as set forth in this Title. review. ~~If the item is to be reviewed by the Planning Commission, a copy with all accompanying materials shall be forwarded to the Planning Commission for their action.~~

A.B. Applications for Conditional Use Permits shall be accompanied by: maps, drawings, statements, reports, studies, or other documents, as required by the Planning Commissionapproval body and/or City staff. If applicablerequired, the applicant shall also provide mailing addresses of all of the property owners within three (300) feet of the subject property, per current County records, printed on self adhesive labels.

14-2-504 FEE

The applications for any Conditional Use Permit shall be accompanied by an appropriate fee set by the City Council.

14-2-505 PUBLIC COMMENT AND NOTICE

A. Any request for a conditional use permit shall be heard and decided by the Planning Commission unless the item falls within a category designated for Administrative Committee review. When considering the request, the Planning Commission or Administrative Committee shall hold a public hearing to review the request and other concerns, and then take appropriate action upon the request.

A.B. The Planning Commission shall schedule and hold a public meeting and take public comment on all Conditional Use Permit items, except for those that fall within the purview of the Administrative Committee, upon submission of a properly completed and filed application form. The noticing requirement for a Conditional Use Permit heard by the Planning Commission shall be as follows:

1. Sent to all property owners within a three hundred (300) feet radius around the subject property at least fourteen (14) days prior to the meeting.

2. Posted with notification signage on the subject property by the applicant/agent. The signage shall be provided to the applicant/agent by the City and shall be posted by the applicant/agent ten (10) days in advance of the scheduled meeting.

C. The noticing requirement for a conditional use permit request heard by the Administrative Committee shall be the same as required for any public hearing held by the Administrative Committee, as set forth in 14-2-104.

B.

14-2-506 DETERMINATION

A. A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the applicable standards.

B. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal, or if the imposition of reasonable conditions to achieve compliance with applicable standards is not possible, the conditional use permit request may be denied.

C. Standards applicable to conditional uses include all the requirements of this Title, and consideration of the following:

1. The location of the proposed use shall not be detrimental to the general well-being of the community and the neighborhood in relationship to other existing uses in the general vicinity.

2. The ~~effects of the~~ proposed use and/or accompanying improvements ~~shall not inordinately impact schools, utilities and streets, and shall stress the following criteria on existing developments in the general vicinity;~~

3. ~~The A~~ Appropriate buffering of uses and buildings, proper parking and traffic circulation, and the use of building materials and landscaping which are in harmony with the area, ~~and compatibility with adjoining uses.~~

- ~~D.~~ ~~3.~~ The applicant, at his or her cost, shall provide any report and/or study relating to utilities, traffic impact, school impact, soil and water impact, existing conditions, line-of-sight and building massing, and any other information requested by the City in order to render a proper decision.

14-2-507 INSPECTION

Following the issuance of a Conditional Use Permit, the Planning Department shall approve an application for a building permit upon compliance of construction plans meeting such conditions and requirements as established by the Planning Commission. Representatives of the Planning Department shall inspect the project to insure that all required improvements meet the conditions of the Conditional Use Permit and this Ordinance before a certificate of occupancy is issued by the Engineering Department and before an application for permanent power for the property may be approved by the Bountiful City Power Department.

14-2-508 REVOCATION

- A. Upon receiving a written complaint alleging a violation or failure to comply with any condition prescribed in a Conditional Use Permit, the Planning Department shall investigate the complaint. If the complaint has merit, and attempts to remedy the complaint fail, the Planning Department:
 1. May place the complaint on the agenda of a regularly scheduled meeting of the ~~approving body~~ Planning Commission, provided that the permittee shall have at least fourteen (14) days notice of the meeting.
 2. If the Conditional Use Permit was issued by the City Council upon appeal, request that the complaint be placed on the earliest possible City Council agenda for review with the permittee having at least fourteen (14) days notice of the meeting.
- B. Permittee shall be given written notice by personal service or by certified mail of the exact nature of the complaint and the date and time of the hearing before the Administrative Committee, Planning Commission or City Council. An informal hearing may be conducted to determine the current status of the Conditional Use Permit ~~shall be held in accordance with customary administrative hearings and procedures. No notice to prior to any public hearing, without notification to~~ surrounding owners ~~will be required~~.
- C. The Administrative Committee, Planning Commission, or City Council, after hearing the evidence presented regarding the complaint, may continue the hearing from time to time, may modify or rescind any condition or requirement of the Conditional Use Permit as it deems necessary, or may take no action and dismiss the complaint.

- D. If, after review at the informal hearing, the Planning Commission or City Council find that evidence of failure to comply with the provisions of the Conditional Use Permit is substantial enough to consider revocation, it shall schedule a formal hearing for purposes of considering revocation of the Conditional Use Permit. The notice for the revocation hearing shall be the same noticing procedure used for considering a new petition.
- E. The Planning Commission or City Council, after hearing final evidence and testimony on the status of the Conditional Use Permit, may revoke the Conditional Use Permit or modify the conditions as deemed necessary.
- F. Any permittee aggrieved by an order entered by the Planning Commission may appeal such decision to the City Council by filing a written Notice of Appeal to the City Council within fifteen (15) days of decision by the Planning Commission. Such appeal shall be submitted to the Bountiful City Planning Director. The City Council shall hold a second hearing to consider the appeal using the procedure described above in this Section.
- G. Any permittee aggrieved by an order entered by the City Council may **maintain** an action for relief therefrom in any court of competent jurisdiction. Action for relief must be filed with the court within thirty (30) days after the order from which relief is sought is made.
- H. This section shall apply to anyall Conditional Use Permits issued after the effective date of this Ordinance, regardless of change in ownership or occupancy.

14-2-509 TIME LIMIT

- A. A temporary Conditional Use Permit for a use which is incidental or directly related to an intended permanent use or is intended to become a permanent use may be issued by the ~~Planning Commission~~Administrative Committee for a period of six (6) months. This permit may be renewed by the Planning Department for a total of three (3) successive six (6) month periods allowing a total of two (2) years for the temporary Conditional Use Permit. Where hardship or unusual circumstances exist, the ~~Planning Commission~~Administrative Committee may extend the temporary permit for one (1) additional year. These extensions shall be granted in two (2) separate six (6) month increments. A temporary Conditional Use Permit shall not be issued for a use which is not incidental to or directly related to an intended permanent use on the property.
 - 1. Mobile offices, homes or trailers which are used for business purposes shall only be allowed for a six (6) month time period as authorized by the ~~Planning Commission~~Administrative Committee. The ~~Planning Commission~~Administrative Committee may extend the time period for the temporary structure up to one (1) additional year providing that ~~plans for a permanent structure have received~~the Planning Commission and City Council have granted final site plan approval and construction has commenced.
 - 2. Temporary structures shall be removed from the property upon occupancy of the permanent structure. ~~Any p~~Pre-manufactured structures which meets all building code regulations and which is part of the approved site plan, and any

construction trailer ~~which is removed at the end of construction,~~s shall be exempt from this regulation.

- B. ~~Bountiful City does not issue~~A temporary Conditional Use Occupancy Permits, and any document purporting to be a temporary conditional use occupancy permit is void. ~~shall not be issued nor shall the building structure or other facility be occupied until all water, sewer and electrical permits have been issued and all appropriate inspections performed.~~
- C. Unless there is substantial action under a Conditional Use Permit within a maximum period of one (1) year of its issuance, the Conditional Use Permit shall expire. The ~~Bountiful City~~ Planning ~~Director~~Commission may grant a maximum extension of six (6) months, when deemed in the public interest. Substantial action under this section shall mean: ~~the footings and foundation of the main building are in place~~
1. ~~For new construction or a remodel, at least 25% of the proposed construction has been completed.~~
 2. ~~For a use located in an existing or completed structure, at least 25% of the approved area is continuously occupied and utilized for the conditional use.~~

14-2-510 RE-APPLICATION AFTER DENIAL OR REVOCATION

~~It is unlawful to apply or reapply for a Conditional Use Permit within one (1) year of the date of Denial of an application for or revocation of a Conditional Use Permit regarding any parcel of property or any portion thereof, shall prohibit the filing of another application for a Conditional Use Permit for the same parcel of property or any portion thereof, within one (1) year of the date of the final denial of the application or revocation of the permit.~~

14-2-511 CONTINUING EFFECT

- A. A Conditional Use Permit, applies to a specific parcel of property, or portion of a parcel of property, and may not be transferred to another parcel of property.
- B. A Conditional Use Permit for the operation of a business does not run with the land unless the approving body specifies otherwise. A Conditional Use Permit for the construction of improvements to a property will run with the land unless the Planning Commission sets conditions that limit it to a specific individual and/or for a finite period of time. If any aspect of the conditional use becomes a legal nonconforming ~~element~~use due to a later amendment to this Ordinance, the provisions of Part 4 of this Chapter relating to nonconformities ~~nonconforming buildings and uses~~ shall apply.